



## ***AZ POST***

### ***INTEGRITY BULLETIN***

***Volume No. 41***



The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **January and February 2009**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have.

### **January and February 2009**

#### **CASE NO. 1**

#### **PRE-HIRE THEFT**

During a background investigation in 2006 for a Deputy Sheriff's position, Recruit A admitted that two years before, while working as a detention support specialist, she was responsible for verifying the count of an inmate's money who was being booked into the jail. The initial booking officer understated the inmate's money by \$20.00. Recruit A set aside the extra \$20.00 for her own use because she knew it would go undetected. She also disclosed a pattern of petty theft that occurred between one and four years before, including giving a set of department owned handcuffs to a friend, taking an abandoned pair of sunglasses, and two incidents of shoplifting prior to working for the sheriff's office. The agency imposed discipline for the theft and denied her application to become a deputy, stating she could apply again in two years. The information came to POST's attention during a new hire audit on the subsequent application in 2008. The agency had continuously employed Recruit A during the entire time frame and avowed that her work product and honesty have been excellent. The Board adopted a consent agreement calling for an additional three year delay in eligibility to obtain certification bringing the total time from misconduct to appointment to over seven years.

#### **CASE NO. 2**

#### **DISHONESTY and THREATS**

Officer B failed to disclose on his POST Statement of Personal History and Application for Certification that he had previously been cited for smuggling the drug Soma into the country from Mexico. He denied that he was the one who received the citation despite that it was in his name, with his address and his job description. He continues to deny it. This investigation started when a former girlfriend, also a peace officer, informed Officer B's department that he ordered Soma off the internet and was illegally using it. During the investigation, Officer B was under orders not to contact his former girlfriend. He nonetheless contacted her and made threats about her ability to obtain back up in the future if she didn't change her story. During the investigation, it was also discovered that Officer B had been driving on a cancelled driver's license for over a year. The Board revoked his peace officer certification.

**CASE NO. 3****DISORDERLY CONDUCT**

Detective C was off duty and drinking from a beer bottle in a casino parking lot. When officers contacted her she behaved belligerently toward them and refused to identify herself. She was cited for disorderly conduct. The charges were dismissed after she completed a diversionary program that included counseling. Approximately 16 months later, Detective C was in a bar fight during which she struck two female patrons with her purse and choked one with her hands. She participated in a second diversionary program, also requiring anger management counseling for the charge of disorderly conduct/fighting. The Board revoked her certification for committing an offense involving physical violence.

**CASE NO. 4****DISHONESTY**

Officer D reported that her department issued handgun, Taser and three magazines had been stolen from her home. She wrote a memo detailing the theft in which she falsely claimed that the equipment had been secured in the closet of a locked bedroom and that she was the only one with access to the bedroom. During a criminal investigation of the theft it was determined that neither the closet door nor the bedroom door had a lock on it. Her statements about the equipment being secured in a locked room were false. Officer D did not respond to the POST Complaint. The Board revoked her peace officer certification for committing an offense involving dishonesty.

**CASE NO. 5****MISFEASANCE, MALFEASANCE or  
NONFEASANCE IN OFFICE**

Officer E was newly out of the academy and just off Field Training when he was dispatched to investigate a hit and run. Several officers responded. They located and detained the driver of the car. Officer E stepped onto Mr. H's property to observe a fellow officer who was speaking to someone in the yard. Mr. H confronted him and told him to get off his property and called them "mother f\_\_\_\_\_s" and said the police were always harassing him. Officer E told him to get back and to put his hands down. He complied briefly but was soon back in Officer E's space talking excitedly. Officer E became irate and started "mother f\_\_\_\_\_n' him back," and went toe to toe with Mr. H, ordering him back again. The third time Mr. H got too close to Officer E, Officer E again held his ground and struck Mr. H. Officer E said he intended to punch Mr. H but he was too close, so he converted the movement into an impact push which landed on Mr. H's head and upper body. Officer E held his ground rather than create space by stepping back. He stated to internal investigators, "I just think that...police officers don't back down." The Board recognized substantial mitigation in that Officer E was inexperienced. It adopted a consent agreement calling for a six month suspension of peace officer certification.

**CASE NO. 6****PORNOGRAPHY ON DUTY**

Officer F was looking at pornographic websites at work. His activity was discovered after he printed color photos of body parts and sexual activity on the station printer. Supervisors counseled Officer F, reminded him that such activity was forbidden by policy and warned that he could be terminated for it. He told them it was a "one-time thing" and it would not happen again. When he was discovered viewing pornography again, Officer F explained that he had viewed pornography while at work about 20 times since being counseled not to do it. He spent about two hours twice a week of his work time viewing pornographic websites. He resigned. Officer F requested a hearing to contest the allegations but failed to appear at the hearing or at the Board meeting for consideration of his peace officer certification. The Board revoked certification for misfeasance, malfeasance and nonfeasance in office and conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

**CASE NO. 7****ASSAULT and DISHONESTY**

Officer G assaulted Ms. M by pushing her to the floor, grabbing her around the neck and banging her head against the wall, causing visible injuries. When the police responded, Officer G insisted that there had only been yelling but no physical contact. They noticed dried blood on his finger and arrested him. He pled guilty to disorderly conduct/fighting. The Board revoked his certification for committing an offense involving physical violence and an offense involving dishonesty.

**CASE NO. 8****LYING ON APPLICATION**

Officer H was the driver in a gang related drive-by homicide in 1995. No charges were filed against him but he was interviewed by deputies and he gave testimony for the defense during the trial. The shooter was convicted of murder. In 2004, Officer H filled out an application for a law enforcement agency. On the form, he answered “no” to the following questions: Did you ever accompany any person who committed any serious crime; Have you ever done anything, that if found out, would embarrass this department; Has a police officer, detective or any other law enforcement **EVER** questioned you about **Any** incident (whether as a witness, victim, suspect, or arrestee) even in an incident for which you were not charged or arrested; and Have you **EVER** been present during the commission of **ANY** criminal offense? (emphasis in original) The Board revoked his peace officer certification for the commission of an offense involving dishonesty and malfeasance.

**CASE NO. 9****DISHONESTY**

Officer I was involved in a one vehicle non-injury collision and reported it to his supervisor. Officers responded to his home later to take the report. Officer I told the investigating officers that he had a blow out which caused him to run off the road and strike a sign. He then showed them the remnants of the tire and rim. One of the investigators went to the location of the collision and found the damaged sign. Evidence at the scene was inconsistent with Officer I’s statements. Officer I admitted that he had been dishonest. He actually overshot the median while trying to make a u-turn and hit the sign. He stated that he did not damage the tire as originally reported, but maintained that he really did have a blow out sometime after the collision. However, during his IA interview he said he had a blow out about 30 minutes before the collision. The Board revoked his peace officer certification for committing an offense involving dishonesty and malfeasance.

**CASE NO. 10****THEFT**

Officer J repeatedly stole firewood from the woodpiles of two neighboring residences. The Board revoked his certification for committing an offense involving dishonesty.

**CASE NO. 11****IMPROPER CONDUCT WITH A MINOR and DISHONESTY**

Officer K accompanied a fellow officer’s family on a cruise and met their 14 year old daughter. About two years later Officer K began to pursue a romantic interest in the girl. The girl’s parents discovered over 200 phone calls and text messages between their daughter and Officer K. He provided her access to his “My Space” page which contained numerous images with nudity, sexual conduct and simulated sexual activity. During interviews, Officer K lied to investigators when he stated his only physical contact with the girl was a few hugs when greeting one another and holding hands. She reported that he had pressed his body against hers while slow dancing and he had kissed and licked her neck. The Board revoked Officer K’s peace officer certification for malfeasance in office and conduct that tends to jeopardize public trust in the law enforcement profession.

The Board adopted consent agreements calling for a voluntary relinquishment in the following fact situations. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An Officer gave false and misleading information during internal interviews about his evidence handling and paperwork.

The Board entered mandatory revocations for the conviction of the following felonies:

- Burglary, Sexual Abuse and Aggravated Assault

On January 21, 2009, and February 18, 2009, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the matter to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- A cadet was insubordinate and used abusive language.
- An applicant disclosed that he had been accused of taking money from a previous employer, but when the agency did not ask follow up questions, he did not provide details.
- A deputy was insubordinate when he violated a written directive not to be alone with a particular 17 year old female.
- A sergeant left his working files containing some property and evidence behind when he vacated his office.
- A deputy used department equipment to send inappropriate and sexually explicit messages, jokes and photos.
- An officer was suspected of driving under the influence of alcohol.